

**Before the
Federal Communications Commission
Washington, D.C. 20554**

RECEIVED
JAN 6 1999
FCC MAIL ROOM

In the Matter of)	
)	CC Docket No. 96-45
Federal-State Joint Board on)	DA 98-2410
Universal Service)	

COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc., on its behalf and on behalf of its subsidiaries, (collectively referenced as "SBC") is disappointed with the lack of specificity and direction provided by the Federal and State Joint Board on Universal Service ("Joint Board") in the Second Recommended Decision, released November 25, 1998 in the above captioned docket ("Recommended Decision"). As discussed in these Comments, the Joint Board does not resolve with any specificity certain key issues which the Commission intended it to address. Although a number of items, including the purpose of universal service support, a methodology for determining support, the size of the federal support mechanism and other significant topics, are covered, the Joint Board too often fails to make viable detailed recommendations to the Commission. While SBC recognizes the task assigned to Joint Board is daunting, it does not believe this final product meets reasonable expectations.

I. THE JOINT BOARD'S RECOMMENDED DECISION PROVIDES LITTLE SUBSTANTIVE DETAIL REGARDING THE SPECIFICS OF ITS RECOMMENDATIONS.

A review of the Recommended Decision, and the separate opinions attached thereto, disclose a failure on the part of the Joint Board to detail, with the level of

No. of Copies rec'd _____
List A B C D E _____

Comments of SBC Communications Inc.
CC Docket No. 96-45
December 23, 1998

specificity required, how it envisions the implementation of its recommendations. This deficiency is not a matter of an oversight, but instead seems to reflect that the Joint Board was not unified in its conclusions. Unfortunately, by these actions, the Joint Board has not sufficiently completed the task it was assigned by the Commission's Referral Order of July 17, 1998.¹ In the Referral Order, the Commission requested the Joint Board's recommendation on three major issues relating to the appropriate methodology for determining support amounts, the extent to which federal universal service should be applied to the intrastate jurisdiction, and the recovery of universal service contributions through rates, surcharges and other means. This referral was, at least in part, a response to a request from members of the Joint Board to be permitted to address the matter of high cost support.²

The value of the Joint Board's input with regard to matters affecting both state and federal jurisdictions cannot be understated. However, when a complete consensus has not been reached in support of sufficiently detailed recommendations, the referral process fails to achieve its avowed purpose. SBC believes that the Recommended Decision, to the extent that it leaves significant issues to a future Commission determination, is premature and should be held in abeyance pending resolution of associated issues.³

¹ In the Matter of the Federal and State Joint Board on Universal Service, Order and Order on Reconsideration, CC Docket No. 96-45, released on July 17, 1998 ("Referral Order").

² Formal Request for Referral of Designated Items by the State Members of the § 254 Federal-State Joint Board on Universal Service, CC Docket No. 96-45, dated March 11, 1998.

³ In this context, the ambiguity and lack of specificity is understandable. For example, as recognized by the Joint Board in Paragraph 28 of the Recommended Decision, absent "...a complete forward looking economic cost model, it is not possible...to make a final recommendation as to the most reasonable forward-looking cost methodology". Similarly, at Paragraph 48 the statement is made that "[u]ntil we resolve decisions, as well as obtain more precise cost data...it is not possible to define...the amount of several other pending policy support required."

II. PROPOSED METHOD FOR ENSURING SUFFICIENT SUPPORT FOR AFFORDABLE AND REASONABLY COMPARABLE RATES.

A. Recognition of Implicit Support

Existing access charges provide implicit support which allows business and residential customers in high cost areas to receive service at affordable rates. Unless the Joint Board and the Commission take explicit action, this implicit support will remain and will not be portable to new carriers. SBC supports the position advanced by the United States Telephone Association ("USTA")⁴ that any existing embedded support must be made explicit. USTA's proposal provides support to eligible telecommunications carriers serving high cost areas and incentives for new carriers to offer service to local customers. In doing so, this proposal meets the Telecommunications Act's directive that there should be "specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service."⁵ Therefore, the USTA proposal should be adopted by the Joint Board and the Commission.

B. Basing Federal High Cost Support on Forward-Looking Economic Costs

In its Recommended Decision, the Joint Board reiterates its belief that federal high cost support should be based on forward-looking economic costs.⁶ However, it acknowledges that without a "complete" forward-looking economic cost model, it cannot make a final recommendation as to the appropriate methodology to be used in distributing high cost support.⁷ In addition to the "uncertainties" recognized in the Recommended

⁴ See, *ex parte* letter from John W. Hunter, of USTA, dated September 25, 1998 in this docket.

⁵ 47 USC § 254(b)(5).

⁶ Recommended Decision, ¶ 27.

⁷ *Id.*, at ¶ 28.

Decision,⁸ certain of the Joint Board members express varying concerns regarding such a model's results and the sufficiency of the model in meeting the Commission's requirements. In this context, SBC encourages the Commission not to rely upon a forward-looking cost model to determine the size of the universal service support mechanism.

C. Size of Area Over Which Costs Are Averaged

The Joint Board recommends that costs be measured at the study area level based upon its conclusion, "...that support calculated at this level will properly measure the support responsibility that ought to be borne by federal mechanisms given the current extent of local competition."⁹ The Joint Board also recognizes that "as competition develops", the calculation of costs using the aggregate characteristics of a study area is "less appropriate"¹⁰ in making its recommendation, the Joint Board appears to ignore the fact that the telecommunications market is already highly competitive. Competition will erode, and is eroding, the universal service support which is implicit in local exchange carrier rates. Given this fact it is inappropriate to recommend a mechanism that relies, at least in part, on recovery based on existing local service subsidies.

In addition, for any universal service support mechanism to function effectively in a competitive marketplace, it must utilize costs based on an area less than a study area. The study area is simply too broad, encompassing both low cost and high cost wire centers. Thus, it will enable carriers which serve, primarily or exclusively, low cost

⁸ Id., at ¶ 29.

⁹ Recommended Decision at ¶ 33.

¹⁰ Id., at ¶ 34.

customers in metro areas to receive federal support for these customers because they are located in a study area which is also comprised of high cost customers served by other carriers. This inherent inequity with the use of study areas strongly argues against the adoption of this basis.

III. SIZE OF FEDERAL SUPPORT MECHANISM.

Among the broad conclusions reached by the Joint Board is its determination that the federal high cost support fund "...should only be as large as necessary, consistent with other requirements of the law."¹¹ Yet, the Joint Board states that until certain pending policy decisions are reached and more precise cost data is provided, it cannot define in dollars the amount of support required.¹² Regardless, the Joint Board states its belief that current circumstances do not warrant a high cost support mechanism that results in a significantly larger federal support fund.¹³

Inherent in the Joint Board's conclusions is the assumption that its plan will produce reasonably comparable rates if the combination of state and federal support can keep the net cost differences between high cost and low cost areas within reasonable bounds. However, there is nothing to indicate that a study or other empirical evidence exists to support this assumption. Without clear proof, the Joint Board is rash to limit the fund to only insignificant increases.

¹¹ Recommended Decision, ¶ 47.

¹² Id., at ¶ 48.

¹³ Id., at ¶ 49.

IV. HOLD HARMLESS.

SBC supports the Joint Board's confirmation of the Commission's commitment to hold states harmless so that no non-rural carrier will receive less federal high cost assistance than the amount it currently receives from explicit support mechanisms. However, this assurance should also be made with respect to the implementation of any new mechanisms. This clarification is required to address states where there are multiple non-rural carriers. In such cases, the total support for that state should not be redistributed among the companies. To do so would neither advance the Commission's objective of competitive neutrality nor would it be supportable since the amount of funding is dependant upon the composite amounts determined by these carriers.

V. MECHANISM FOR DISTRIBUTING SUPPORT.

A. Portability of Support

The Joint Board recommends the Commission continue with the policy of making high cost support available to all eligible carriers, whether they are incumbent local exchange carriers, competitive carriers or wireless carriers. SBC concurs with the recommendation to the extent that "eligible" carriers are defined to exclude resellers and include only those carriers providing service in the specified area.

SBC is concerned, however, that providing portable support based on a study area basis is inconsistent with the Commission's goal of competitive neutrality. Providing support to a new entrant based on an incumbent's study area average is likely to overstate the necessary support. The new entrant is not likely to serve areas above the study area cost, and is more likely to serve those urban areas that are less than the study area average. The new entrant thus derives greater comparative compensation, enabling it to

invest the excess in its competitive operations. While support should be portable, it should be provided on a basis that does not disadvantage the incumbent nor advantage a new entrant.

B. Use of Support

The Joint Board recommends that the Commission require carriers certify that they will apply federal high cost universal service support "in a manner consistent with Section 254."¹⁴ Just how a carrier would make such a showing and in what context is not delineated. Absent this clarification, the Joint Board's recommendation, while laudable, is confusing and incapable of compliance.

Moreover, the Joint Board's recommendation would appear to be at odds with its proposed cost model in which costs are averaged in order to determine the support amount. The Joint Board has recommended the use of a forward-looking cost model, which uses the location of individual customers to determine the size of the fund and then averages costs over the entire study area. This proposal seemingly could require companies to demonstrate that they have spent the monies received on a "hypothetical network", unrelated to actual network expenditures.

V. CONCLUSION.

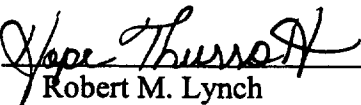
While SBC recognizes that various issues still remain unaddressed by the Commission, and that the resolutions of these matters might conceivably effect the Joint Board's charge, the Joint Board recommendations fall woefully short of providing adequate guidance to the Commission. If, as this Recommended Decision indicates, the

¹⁴ Id., at ¶ 57.

Joint Board is unable at this time to fulfill its obligations in this regard, the issuance of its recommendations should be delayed until it is able to do so. Too many questions remain unanswered for this Recommended Decision to constitute a final action on the part of the Joint Board.

Respectfully submitted,

SBC COMMUNICATIONS INC.

By: 
Robert M. Lynch
Roger K. Toppins
Hope Thurrott
One Bell Plaza, Room 3023
Dallas, Texas 75202
214-464-3620

Attorneys for SBC Communications Inc.
and its Subsidiaries

December 23, 1998

CERTIFICATE OF SERVICE

I, Katie M. Turner, hereby certify that the foregoing, "COMMENTS OF SBC COMMUNICATIONS INC." in CC Docket No. 96-45, DA-2410 has been filed this 23rd day of December, 1998 to the Parties of Record.

A handwritten signature in cursive script that reads "Katie M. Turner". The signature is written in black ink and is positioned above the printed name.

Katie M. Turner

December 23, 1998

OFFICE OF SECRETARY
FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET SW
ROOM TW-A325
WASHINGTON DC 20036

(ORIGINAL & 6 COPIES)

THE HONORABLE SUSAN NESS CHAIR
COMMISSIONER
FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET NW RM 832
WASHINGTON DC 20554

THE HONORABLE WILLIAM E KENNARD,
CHAIRMAN
FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W., ROOM 814
WASHINGTON, DC 20554

THE HONORABLE GLORIA TRISTANI
COMMISSIONER
FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET NW RM 826
WASHINGTON DC 20554

THE HONORABLE DAVID BAKER
COMMISSIONER
GEORGIA PUBLIC SERVICE COMMISSION
244 WASHINGTON ST SW
ATLANTA GA 30334-5701

SHERYL TODD
COMMON CARRIER BUREAU
FEDERAL COMMUNICATIONS COMMISSION
2100 M ST NW
8TH FLOOR
WASHINGTON DC 20554

(1 PAPER COPY & 1 COPY ON DISKETTE)

THE HONORABLE HAROLD FURCHTGOTT-ROTH
COMMISSIONER
FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET NW ROOM 802
WASHINGTON DC 20554

THE HONORABLE MICHAEL K POWELL
COMMISSIONER
FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W., ROOM 844
WASHINGTON, DC 20554

THE HONORABLE JULIA JOHNSON STATE CHAIR
CHAIRMAN
FLORIDA PUBLIC SERVICE COMMISSION
2540 SHUMARD OAK BLVD
GERALD GUNTER BUILDING
TALLAHASSEE FL 32399-0850

THE HONORABLE LASKA SCHOENFELDER
COMMISSIONER
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
STATE CAPITOL 500 EAST CAPITOL STREET
PIERRE SD 57501-5070

THE HONORABLE PATRICK H WOOD III
CHAIRMAN
TEXAS PUBLIC UTILITY COMMISSION
1701 NORTH CONGRESS AVE
AUSTIN TX 78701

MARTHA S HOGERTY
MISSOURI OFFICE OF PUBLIC COUNCIL
301 WEST HIGH STREET STE 250
TRUMAN BUILDING
JEFFERSON CITY MO 65102

DEONNE BRUNING
NEBRASKA PUBLIC SERVICE COMMISSION
300 THE ATRIUM 1200 N STREET
P O BOX 94927
LINCON NE 68509-4927

CHARLES BOLLE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
STATE CAPITOL 500 EAST CAPITOL ST
PIERRE SD 57501-5070

JAMES CASSERLY
FEDERAL COMMUNICATIONS COMMISSION
COMMISSIONER NESS'S OFFICE
1919 M STREET NW ROOM 832
WASHINGTON DC 20554

ROWLAND CURRY
TEXAS PUBLIC UTILITY COMMISSION
1701 NORTH CONGRESS AVENUE
P O BOX 13326
AUSTIN TX 78701

ANN DEAN
MARYLAND SERVICE PUBLIC COMMISSION
16TH FLOOR 6 SAINT PAUL STREET
BALTIMORE MD 21202-6806

BRIDGET DUFF
STATE STAFF CHAIR
FLORIDA PUBLIC SERVICE COMMISSION
2540 SHUMARD OAK BLVD.
TALLAHASSEE FL 32399-0866

IRENE FLANNERY
FEDERAL STAFF CHAIR
FEDERAL COMMUNICATIONS COMMISSION
ACCOUNTING AND AUDITS DIVISION
UNIVERSAL SERVICE BRANCH
2100 M STREET NW ROOM 8922
WASHINGTON DC 20554

PAUL GALLANT
FEDERAL COMMUNICATIONS COMMISSION
COMMISSIONER TRISTANI'S OFFICE
1919 M STREET NW ROOM 826
WASHINGTON DC 20554

LORI KENYON
ALASKA PUBLIC UTILITIES COMMISSION
1016 WEST SIXTH AVENUE STE 400
ANCHORAGE AK 99501

MARK LONG
FLORIDA PUBLIC SERVICE COMMISSION
2540 SHUMARD OAK BLVD.
TALLAHASSEE FL 32399-0866

SANDRA MAKEEF
IOWA UTILITIES BOARD
LUCAS STATE OFFICE BUILDING
DES MOINES IA 50319

KEVIN MARTIN
FEDERAL COMMUNICATIONS COMMISSION
COMMISSIONER FURCHTGOTT-ROTH'S OFFICE
1919 M STREET NW ROOM 802
WASHINGTON DC 20554

PHILIP F MCCLELLAND
PENNSYLVANIA OFFICE OF CONSUMER
ADVOCATE
1425 STRAWBERRY SQUARE
HARRISBURG PA 17120

BARRY PAYNE
INDIANA OFFICE OF THE CONSUMER COUNSEL
100 NORTH SENATE AVE ROOM N501
INDIANAPOLIS IN 46204-2208

JAMES BRADFORD RAMSEY
NATIONAL ASSOCIATION OF REGULATORY
UTILITY COMMISSIONERS
1100 PENNSYLVANIA AVE NW
P O. BOX 684
WASHINGTON DC 20044-0684

BRIAN ROBERTS
CALIFORNIA PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO CA 94102

TIANE SOMMER
GEORGIA PUBLIC SERVICE COMMISSION
244 WASHINGTON ST SW
ATLANTA GA 30334-5701

SHERYL TODD (plus 8 copies)
FEDERAL COMMUNICATIONS COMMISSION
ACCOUNTING AND AUDITS DIVISION
UNIVERSAL SERVICE BRANCH
2100 M STREET NW ROOM 8611
WASHINGTON DC 20554

INTERNATIONAL TRANSCRIPTION SERVICE
1231 20TH ST NW
WASHINGTON DC 20036

PAUL A BULLIS
CHIEF COUNSEL
MAUREEN A SCOTT
ARIZONA CORPORATION COMMISSION
1200 WEST WASHINGTON ST
PHOENIX AZ 85007

EDWARD SHAKIN
BELL ATLANTIC TELEPHONE COMPANIES
1320 NORTH COURT HOUSE ROAD
EIGHTH FLOOR
ARLINGTON VA 22201